

## CONSENT TO HEALTH CARE

### 1.1 POLICY PURPOSE

This document is a resource for health care providers across Vancouver Coastal Health (VCH), to provide guidance on the obtaining, validation, and documentation of consent{ XE "documentation of consent" } for health care – including blood products - for Patients, Clients, and Residents, whether adults or minors{ XE "minors" }. The provisions set out in this document are a synthesis of legislation, common law for topics on which legislation{ XE "legislation" } is silent, and sound risk management{ XE "risk management" } advice. In all cases, current legislative provisions take precedence.

The purpose of this policy is to clarify the role of the health care provider in obtaining valid consent decisions – and documentation of that decision - for all health care procedures for:

- Capable adults
- Adults deemed incapable of making a particular consent decision{ XE "incapable" }
- Children and youth age 0 – 19 years
- Residents in Residential care facilities
- Clients of community and public health services

### 2.1 POLICY

#### 2.2 Consent required for health care

Each health care providers (Health Care Provider) at Vancouver Coastal Health obtains a valid consent decision for all health care provided and ensures documentation of the decision where required.

#### 2.3 Documentation (Consent Form) of Consent Decisions

##### 2.3.1 Documentation required

Documentation of a consent decision is required for the following situations:

1. Blood products - Any administration within hospital of fractionated or non-fractionated blood products{ XE "fractionated or non-fractionated blood products" } (reference: 1999 Ministry of Health Services directive to ensure documentation of consent or refusal for the administration of blood products within hospital).
2. Any procedure or course of treatment meeting one of the following criteria:
  - Involving procedural sedation or general anaesthetic{ XE "conscious sedation or general anaesthetic" }
  - Immunization in school program where children are immunized without the parent / guardian{ XE "parent / guardian" } present (parental consent documented, or child provides own consent)
  - As determined as a standard and communicated within the health care team in a particular program setting (e.g. Emergency Room, Community Mental Health).

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3. Any health care (procedure or course of treatment) for which the provider has reason to believe that the risk of the health care warrants documentation, both as a communication tool with other members of the care team, but also as a means for managing risk in the event of an adverse event.
4. Research or experimental care{ XE "Research or experimental care" } (per research protocol).

### 2.3.2 Use of VCH Forms

For clarity of communication among members of the health care team, VCH forms are to be used. Chart notation by the Health Care Provider of the consent decision is acceptable in exceptional circumstances (e.g. forms not reasonably accessible). (See copies of the VCH Consent Forms, Appendix B of [Guidelines to Special Consent Situations](#))

When the criteria are met indicating that documentation of consent decisions is necessary the Health Care Provider documents the decision using an appropriate form, or making an appropriately detailed chart notation indicating scope of discussion and the decision of the Patient / Client / Resident.

All relevant blanks on the form(s) are to be completed. Any alterations to the form are Initialled by the Patient / Client / Resident and witnessed to be valid.

Abbreviations should be avoided, but if used, only commonly understood abbreviations are to be used on the form.

If the treatment is to be performed under the auspices of VCH, but the consent decision is obtained in the Health Care Provider's office, the form is completed in the Health Care Provider's office and sent to the appropriate department for inclusion on the Patient's / Client's / Resident's health record.

## 2.4 Responsibilities

The Most Responsible Provider{ XE "Most Responsible Provider" } (usually the Attending Physician) obtains the decision – and if necessary documentation - for the course of treatment; and

Every health care provider makes a reasonable effort to ensure that a consent decision is in place before providing care to the Patient / Client / Resident, and to advise the Most Responsible Provider for an element of care if concerns arise as to the validity of a consent decision.

## 2.5 Consent Exceptions{ XE "Consent Exceptions" }

The Health Care Provider may proceed to provide health care without consent in the following situations:

Urgent / emergency - If urgent or emergency health care is required and the Patient / Client / Resident is incapable of making a consent decision, and a substitute decision-maker is not available. Where practical for emergency health care, a second health care

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provider confirms the first provider's opinion about the need for health care and the incapability.

Preliminary examination, treatment or diagnosis - A health care provider may undertake triage or another kind of preliminary examination, treatment or diagnosis of an adult without obtaining an informed consent decision if:

- (a) the adult indicates that he or she wants to be provided with health care, or
- (b) in the absence of any indication by the adult, the adult's spouse, relative or friend indicates that he or she wants the adult to be provided with health care.

Involuntary Psychiatric care - When involuntary psychiatric treatment for a certified Patient { XE "involuntary psychiatric treatment" } is authorized by the Director of the Mental Health Centre authorized by the *Mental Health Act*.

Communicable disease - when a Patient / Client / Resident requires treatment of a communicable disease{ XE "communicable disease" }. (Under the authority of the *Health Act Communicable Disease Regulations* and *Venereal Diseases Act*,{ XE "Health Act Communicable Disease Regulations and Venereal Diseases Act," } treatment is compulsory and requires no consent).

## 2.6 Consent Rights

Every capable Patient / Client / Resident has the right to:

- Give, refuse, or revoke consent on any grounds, including moral or religious grounds, even if refusal will result in death  
Note: Minors may not revoke care necessary to preserve life or health);;
- Select a particular form of available health care on any grounds, including moral or religious grounds;
- Expect that a decision to give, refuse or revoke consent will be respected;
- Be involved to the greatest degree possible in all care planning and decision-making.

If an Adult Patient / Client / Resident is deemed incapable or making a particular consent decision, consent is obtained through an authorized Substitute Decision-Maker{ XE "substitute decision-maker" }.

If an Infant Patient / Client / Resident (<19 years of age) is deemed incapable, consent is obtained from a Parent or Legal Guardian.

See [Guidelines to Special Consent Situations](#)

## 2.7 Scope of Consent{ XE "Scope of Consent" }

Consent to health care applies only to the specific health care, including a course of treatment, to which a Patient / Client / Resident has consented. If the health care changes significantly, a new consent is obtained.

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A health care provider may provide additional or alternative health care{ XE "additional or alternative health care" } without consent if the health care that was consented to:

- Is in progress
- **And** the person is unconscious or semi-conscious,
- **And** it is medically necessary to provide additional or alternative health care to deal with conditions not foreseen when consent was given.

## 2.8 Duration of Consent{ XE "Duration of Consent:" }

The consent for health care is valid until such time as:

- The Patient / Client / Resident revokes consent;
- **Or** there is a change in the health status of the Patient / Client / Resident
- **Or** there is a change in the Health Care Provider's knowledge about the condition, which may affect the original information given to the Patient / Client / Resident, or which might have an effect on subsequent procedures
- **Or** in the opinion of the Health Care Provider, time has passed such that the decision should be revisited and confirmed. The prudent Health Care Provider should re-affirm the Patient's / Client's / Resident's condition and obtain a new consent after a delay in treatment, either at a pre-set period (e.g. one year) or as the scheduled date of the health care approaches (e.g. elective surgery).

## 3.0 POLICY SCOPE

This policy, [guidelines](#), tools and forms apply to all VCH programs, units, and departments.

## 4.1 POLICY PRINCIPLES

- VCH respects the autonomy of all people, their right to make an informed decision concerning their health care, and their right to give, withhold, or withdraw consent.
- People receiving health care in VCH are provided with timely and appropriate information upon which to base their health care decision(s), including consent.

## 5.1 PROCEDURES OR GUIDELINES

Once the Patient / Client / Resident condition has been assessed and the Health Care Provider has determined what care will be proposed, the procedure for obtaining consent{ XE "procedure for obtaining consent" } is to:

- Consider options and propose health care to Patient / Client / Resident, providing information on condition, alternatives, and risks and benefits, communicating in a manner appropriate to the Patient / Client / Resident.
- Ensure the Patient / Client / Resident understands of the information, seeking a Substitute Decision Maker for those who do not understand (formal Substitute Decision Maker for adults, parent or guardian for minors).
- Document decision when required / indicated
- Act on decision of Patient / Client / Resident or Substitute Decision Maker
- See [Guidelines to Special Consent Situations](#)

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## 6.1 TOOLS

### 6.2 Guidelines to Special Consent Situations

#### 6.3 Flowcharts

- Consent to Health Care for Adults
- Resolution of Disputes about Demands for Care that is not Offered
- Resolution of Objection to Decision Made by an Authorized Substitute Decision Maker
- Health Care Decisions for Minors

#### 6.4 VCH Forms

Please note the following access points for the consent forms:

*Printable electronic (PDF) versions:*

- D [Vancouver Coastal Health Intranet](#)

*Hardcopy versions:*

- Request through local (HSDA) Stores contacts, referring to forms by name, form number, and / or VCH Stores reference number.

##### 6.3.1 Consent: Health Care / Blood Products Administration

(includes Certificate of Need for Urgent / Emergency Health Care)

(Printing Reference M1C, VCH Stores Reference: 00055244)

- For Patients being admitted for elective surgery or procedures, the form is signed in the physician's office and forwarded to the Operating Room Booking Office.
- Consent forms that cannot be completed in this ideal manner are completed as soon as possible after the Patient's / Client's / Resident's admission.
- Patients do not leave any patient care unit for the Operating Room without the completed consent form on the Patient's / Client's / Resident's chart, unless the situation is urgent or emergent.
- All day and ambulatory surgical Patients have their consent form completed before admission to any unit's pre-operative care or preparation area.
- Other treatment and diagnostic areas not specified in this procedure determine an interdisciplinary procedure that is aligned with the preceding policy and adheres to the intent of the guidelines regarding informed consent.
- Nursing staff is authorized to document and act on a telephone order to initiate a request within the emergency provision, in the absence of a consent or refusal. In such cases the physician making the telephone order attends to complete a chart notation at the earliest opportunity.

Certificate of Need for Urgent / Emergency Health Care

- Signed by the health care provider making the determination of Urgent / Emergency Health Care; a colleague co-signs when circumstances permit.

##### 6.3.2 Consent: Community/Residential/ Non-Surgical

(Printing Reference M96, VCH Stores Reference: 00067945)

- For Patients being offered non-surgical / non-anaesthetic care for which documentation of consent decision is nonetheless warranted, but the Consent for Health Care / Blood Products Administration ("Consent") form may be inappropriate and overly detailed (e.g. some mental health intervention).{ XE "Consent for Health Care form – Ambulatory" }

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**6.3.3 Appointment of Substitute Decision Maker**

(includes Referral to Public Guardian and Trustee for Temporary Substitute Decision Maker)

(Printing Reference M110, VCH Stores Reference: 00055196{ XE "Advice of Substitute Decision for Consent / Refusal" })

- Guides and confirms appointment of Substitute Decision Maker for persons determined to be not capable of making a health care consent decision. An Appointment of Substitute Decision for Consent / Refusal, plus Consent form (if warranted, see 0 Policy Statement). This form is signed by the legally authorized Substitute Decision Maker, Committee of Person, Representative, or Temporary Substitute Decision Maker.
- If a Substitute Decision Maker for consent cannot be obtained by the health care provider, the matter is referred to the Public Guardian and Trustee (Public Guardian and Trustee) to confirm appointment of a friend or other person who qualifies to act as temporary Substitute Decision Maker, or Public Guardian and Trustee may assume the role of the Temporary Substitute Decision Maker.

**6.3.4 Refusal to Accept Blood Products**

(Printing Reference M161, VCH Stores Reference: 00055230{ XE "Refusal to Accept Transfusion of Blood Products" })

- Those who do not wish to receive blood or blood products are requested to sign this form. A copy is faxed by the Health Care Provider present at the time of completion, to the Blood Transfusion Service serving the site / facility at which care will be provided.

**6.3.5 Consent for Photography & Other Recordings**

(Printing Reference M88, VCH Stores Reference: 00055370)

- Patient consent is obtained by the person requesting the recordings.

**6.3.6 Consent for Autopsy**

({ XE "Authorization for Autopsy" })Printing Reference M32, VCH Stores Reference: 00055303)

- Autopsy to be requested by the physician and signed by the authorized decision maker.

**6.3.7 Consent for Donation of Organs and Tissues{ XE "Consent for Donation of Organs and Tissues" }**

(Printing Reference M61, VCH Stores Reference: 00055352)

- To be completed for donations of corneal tissue or organs by the person confirming authorization for donation.

**6.3.8 Authorization for Leave of Absence for Therapeutic Purposes**

(Printing Reference M72, VCH Stores Reference: 00055361)

- To be completed as documentation of agreement regarding leave of absence for therapeutic purposes{ XE "Authorization for Leave of Absence for Therapeutic Purposes" }.

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**6.3.9 Governing Law And Jurisdiction Agreement (Non-Resident of Canada){ XE "Consent for Jurisdiction of Treatment (Non-Resident of Canada)" }**

(Printing Reference M95, VCH Stores Reference: 00067944)

- To be discussed with non-Canadians - at time of discussion for elective health care, or as soon as possible following resolution of emergency situations - and documented confirming agreement that any dispute which may arise concerning the health care will be dealt with in British Columbia.

**7.0 DEFINITIONS**

**7.1 Valid Consent{ XE "Valid Consent\:" }**

A consent is valid if:

- It relates to the health care proposed
- It is given voluntarily
- It not obtained through fraud or misrepresentation
- The Patient / Client / Resident is capable of giving or refusing consent
- The Patient / Client / Resident has the opportunity to ask questions and receive answers
- The Health Care Provider gives the Patient / Client / Resident information required to understand the proposed health care.

The information should include:

- The condition for which the health care is proposed
- The nature of the proposed health care
- The risks and benefits{ XE "risks and benefits" } of the proposed health care
- The risks and benefits of alternative courses of health care including the option of no health care

**7.2 Health Care{ XE "Health Care" }**

"Health Care" means anything that is done for a therapeutic, preventive, palliative, diagnostic, cosmetic or other purpose related to health, and includes:

- a) A series or sequence of similar treatments or care administered to an adult over a period of time for a particular health problem,
- b) A plan for health care that
  - Is developed by one or more health care providers,
  - Deals with one or more of the health problems that an adult has and may deal with one or more of the health problems that an adult is likely to have in the future given the adult's current health condition

**7.3 Most Responsible Health Care Provider (Most Responsible Provider){ XE "Most Responsible Health Care Provider\:" }**

That person accountable to coordinate / oversee the care of the Patient / Client / Resident for a specified procedure or course of treatment. The Most Responsible Provider is usually the Attending Physician.

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#### 7.4 Patient / Client / Resident{ XE "Patient / Client" }

The term Patient / Client / Resident refers to any adult or minor (<19 years of age), who is receiving health care in VCH as an inpatient / Client / Resident, outpatient / Client / Resident, Client, or Resident. Please note that consent rights (regarding refusal of care and determination of Substitute Decision Makers) differ between adults and minors.

#### 7.5 Necessary Care (i.e. care if refused by or on behalf of a minor / child <19 years of age)

Care, which in the opinion of two (2) medical practitioners, is necessary to preserve the child's life or to prevent serious or permanent impairment of the child's health. (Child, Family and Community Service Act, RSBC 1996 Chapter 46.

#### 7.6 Emergency / Urgent care

Care (i.e. care which must proceed without consent). Care which in the opinion of one, and if practical two (2) medical practitioner(s) is necessary to be provided without delay in order to preserve the adult's life, to prevent serious physical or mental harm or to alleviate severe pain. (Health Care (Consent) And Care Facility (Admission) Act, RSBC 1996 Chapter 181)

#### 7.7 Temporary Substitute Decision Maker (TSDM)

A person chosen by a Health Care Provider to make a decision on behalf of an adult determined to not be capable of making a particular health care decision. A Health Care Provider chooses the person as TSDM who is the highest on the list of:

- a) the adult's spouse;
- b) the adult's child;
- c) the adult's parent;
- d) the adult's brother or sister;
- e) anyone else related by birth or adoption to the adult
- f) if no 'near relative' is able or qualifies, someone close to the adult (but not related) may be authorized by the Public Guardian and Trustee to be a TSDM.

To qualify to be a TSDM, someone must

- (a) be at least 19 years of age,
- (b) have been in contact with the adult during the preceding 12 months,
- (c) have no dispute with the adult,
- (d) be capable of giving, refusing or revoking substitute consent, and
- (e) consult, to the greatest extent possible,
  - (i) with the adult, and
  - (ii) if the TSDM is a person authorized by the Public Guardian and Trustee, with any friend or relative of the adult who asks to assist, and

- (f) comply with any instructions or wishes the adult expressed while he or she was capable.

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**7.8 Representation Agreement –**

An adult (>19 years of age) may make a document (Representation Agreement) authorizing someone (called a Representative) to make health care decisions on their behalf if they were to become incapable. Agreements may be made under section 7 or section 9 of the Representation Agreement Act –

**7.8.1 ‘section 7’ or ‘standard’ agreements**

- may be made by adults who may otherwise not have capability to make certain decisions,
- set out basic authorization and
- have some restrictions; x-ref restrictions

**7.8.2 ‘section 9’ or ‘custom’ agreements**

- may be made by adults who have the capability to understand the nature and effect of the Agreement,
- may be tailored to the wishes of the adult,
- are restricted only as set out in the Agreement.

**8.0 REFERENCES**

This policy is governed by and incorporates BC legislation:

- *Health Care (Consent) and Care Facility (Admissions) Act (HCCCF), 1993 and revisions to 2003*
- *Representation Agreement Act, 2000*
- *Mental Health Act, 1999*
- *Child, Family, and Community Service Act, 1996*{ XE "Child, Family, and Community Services Act, 1994" }
- *Infants Act, 1993*
- *Human Tissue Gift Act, 1999*{ XE "Human Tissue Gift Act, 1999" }
- *Health Act Communicable Disease Regulations*
- *Venereal Diseases Act*{ XE "Venereal Diseases Act" }
- *Patients Property Act*{ XE "Patients Property Act" }
- Ministry of Health Directive Concerning Informed Consent for Blood Products, 2000

**In original copy only:**

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| Issued by:                           |   |                               |
| Name: <u>David Ostrow</u>            | Title: <u>VP, Medical &amp; Clinical Innovation</u> | Date: <u>November 8, 2004</u> |
| <b>Signature of issuing official</b> |   |                               |

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